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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,820	11/16/2001	Darin Prizzi	PRIZZI - 2	8704

7590 05/07/2003

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EXAMINER

KING, ANITA M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED ON  
Due - 8/7/2003 - 11/7/2003  
BY *SP* *5/19/03*

*identical  
Mits h/w*

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/993,820	PRIZZI, DARIN	
	Examiner Anita M. King	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 February 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 6 is/are allowed.

6) Claim(s) 1-5 and 7-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

6) Other: \_\_\_\_\_

This is the third office action for application number 09/993,820, Towel Holder, filed on November 16, 2001.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 12, 2003 has been entered.

***Cancellations of Claims***

Claim 10 has bee canceled per applicant's request in Paper No. 7, dated February 12, 2003.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is redundant and thus, is indefinite. The limitations cited in claim 9 are previously cited in claim 7 from which claim 9 indirectly depends.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,611,123 to Prizzi in view of U.S. Patent 5,362,018 to Darr et al., hereinafter, Darr or U.S. Patent 5,782,090 to Locke. Prizzi discloses in combination a releasable tube holder (10) and a longitudinal support (40), the tube holder comprising: a circular plastic tube split lengthwise into longitudinally mirror image straight halves forming two opposed clamping members (16, 18) joined together at across a first pair of split edges (20) and separated by a second pair of split edges (20), each of the clamping members provided with at least one separated handle member (22) positioned on one of the clamping member halves and opposite another handle member on the other clamping member half, the clamping member halves being hingedly connected by a living hinge (Figs. 4 and 5) between the first pair of split edges to activate opening and closing of the opposed clamping members and separation and closing of the second pair of split edges which engage and are secured to the support by applying and removing pressure on the oppositely positioned handle members; the longitudinal support supporting a towel (38); the plastic tube having an interior surface (36) which has been serrated; wherein the support is a beach chair having a longitudinal top

support; wherein the hinge member extends along and in the direction of the axis of the one pair of straight across split edges hingedly connected; and wherein the hinge member extends axially along the first pair of split edges.

Prizzi discloses the claimed invention except for the limitation of the living hinge being formed by a groove. Darr also teaches that it is known in the clamping art to have a clamp/clip (30, Fig. 3) including a pair of clamping members (42) which are joined by a living hinge (40) at one pair of split edges and wherein the living hinge is formed by a groove (38). Locke teaches that it is known in the clamping art to have a clamp (10) including a pair of clamping members (20 and 30) hingedly connected by a living hinge (18) formed by a groove. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the living hinge in Prizzi to have been formed by a groove as taught by Darr and Locke for the purpose of providing an alternative mechanically equivalent means to permit bending and greater flexibility between the pair of joined clamping members.

Prizzi in combination with Darr or Locke disclose that the plastic tube is formed from polyvinyl chloride or similar plastic material. Prizzi discloses the claimed invention except for the limitation of the plastic tube being formed of polypropylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the material of the plastic in Prizzi to be polypropylene for the purpose of providing an alternative mechanical equivalent material of similar rigidity.

***Allowable Subject Matter***

Claim 6 is allowed.

***Response to Arguments***

Applicant's arguments filed February 2, 2003 have been fully considered but they are not persuasive. The Prizzi reference now in combination with the Darr and/or Locke references disclose the instant invention of claims 1-5 and 7-9.

In regards to applicant's arguments that neither Darr nor Locke discloses a living hinge formed by a groove between a pair of split edges, both Darr and Locke meet this limitation. Darr and Locke both disclose a pair of split edges (as disclosed by the embodiment in Fig. 5 of applicant's instant invention) connected together by a living hinge (40 in Darr and 18 in Locke) formed by a groove (Fig. 3 of Darr and Fig. 5 of Locke) for providing greater flexibility of the clamping member.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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308-3597 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Anita M. King  
Primary Examiner  
Art Unit 3632

May 5, 2003